

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 97 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE N.G.NANDI
and
Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

SANJAY JAYNATILAL RATHOD

Versus

PRAVINBHAI RANMALBHAI AYER

Appearance:

MR RC KAKKAD for Petitioner No. 1
SERVED BY AFFIX.(N) for Respondent No. 1
MS ROOPAL R PATEL for Respondent No. 2

CORAM : MR.JUSTICE N.G.NANDI
and
MR.JUSTICE J.R.VORA

Date of decision: 18/04/2002

ORAL JUDGEMENT (Per : MR.JUSTICE N.G.NANDI)

1. This Appeal under Section 173 of the Motor
Vehicles Act is directed against the award and judgment
passed in Motor Claim Petition No.599/93 by the Motor

Accident Claims Tribunal (Main), Jamnagar.

2. By the impugned award and judgment, the Tribunal awarded Rs. 96,000/- under the future loss of income.

3. Vide order dated 22.2.2002 Notice for settlement was issued to the respondent.

4. It is stated by Mr. R.C. Kakkad, learned Advocate for the appellant that the future income estimated by the Tribunal is on a lower side and the notional income should have been assessed on a higher rate than Rs. 600/- p.m. estimated by the Tribunal.

5. It is stated that by Ms. Roopal Patel, learned Advocate for Respondent No.2 that the injured at the time of the accident was working as a Mason, his income can be estimated at Rs.1,200 p.m.

6. The Tribunal has estimated the income at Rs. 600 p.m. which is on a much lower side. Taking a reasonable view, the notional income can be fixed at Rs. 1200/- per month. The permanent partial disability assessed as per the medical evidence is at 50% whereas the Tribunal has accepted the disability at 40% body as a whole.

6. Now taking the mean the prospective income would come to Rs. 1,800/- p.m. and considering 40% amount by way of disability, i.e. Rs.720 p.m. it would be Rs. 8,640/- per year. The injured at the time of accident was aged about 20 years. The Tribunal has applied the multiplier of 16, which is just and reasonable. Now applying the multiplier of 16, the amount would come to Rs.1,38,240/- as future loss of income, considering the disability of 40% body as a whole. Thus, appellant is in all entitled to Rs.1,38,240/- and adjusting Rs. 96,000/- awarded by the Tribunal, the appellant would be entitled to additional amount of Rs.42,240/- by way of future loss of income.

In view of the above, the appeal is partly allowed. The Respondent No.2 shall pay the additional amount of Rs. 42,240/- with 12% interest from the date of application till the date of realisation of the amount. The additional amount, as aforesaid, together with interest as above shall be deposited by the respondent No.2 with the Tribunal within 4 months from today.

(N.G. Nandi, J.)

(J.R. Vora, J.)
p.n.nair